Appendix.

Rule 43 (e)

Federal Rules of Civil Procedure, Rule 43 (e), 28 U. S. C. A., following Section 723 (c), so far as material, reads as follows:

> "Evidence on Motions. When a motion is based on facts not appearing of record the court may hear the matter on affidavits presented by the respective parties, * * *".

Rule 56 (b) (e)

In so far as material, Rule 56 (b) (e) read as follows:

> "Summary Judgment. * * *
>
> (b) For Defending Party. A party against whom a claim, counterclaim, or cross-claim is asserted or a declaratory judgment is sought may, at any time, move with or without supporting affidavits for a summary judgment in his favor as to all or any part thereof.
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> * * * * * * * * *
>
> (e) Form of Affidavits; Further Testimony. Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions or by further affidavits."